IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8674 of 2004

and

SPECIAL CIVIL APPLICATION No.8680 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

C.S.HOTEL PVT.LTD.

Versus

NALINGIRI NANUGIRI GOSWAMI

Appearance:

MR YN RAVANI for Petitioner

MR TR MISHRA for Respondents-workmen

MS FALGUNI PATEL, AGP for Collector, Ahmedabad.

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 02/09/2004

ORAL JUDGEMENT

Learned advocate for the petitioner seeks permission to join the Collector, Ahmedabad as party respondent in both the petitions. Permission is granted.

2. Rule. Learned advocate Shri T.R.Mishra waives service of notice of rule on behalf of respondents-workmen and learned AGP Ms.Falguni Patel waives service of notice of rule on behalf of newly added respondent, i.e. the Collector, Ahmedabad, in both the petitions. Since identical facts arise in both the petitions, they are being disposed of by this common order.

3. In the present petition, by the impugned order dated 2.7.04, the Labour Court, Ahmedabad has been pleased to vacate the interim injunction granted in favour of the petitioner herein during the pendency of the applications filed by the petitioner seeking setting aside the ex-parte awards. It is the case of the petitioner that though the main proceedings filed by the petitioner seeking setting aside of the ex-parte awards as well as application for condonation of delay are pending before the Labour Court, interim injunction has been vacated thereby causing great harm to the petitioner.

4. Learned advocate Shri T.R.Mishra appearing for the respondents-workmen submits that the petitioner has not made out any ground whatsoever for seeking setting aside of the ex-parte awards and the petitioner has always been negligent in appearing before the Labour Court and the impugned awards which are passed as far back as on 10th April 2002 are not possible to be disturbed and that therefore the application seeking setting aside of the awards itself is without any merits.

5. By order dated 20th July 2004 this Court had issued notice and granted interim relief on the condition that the petitioner deposits before the Labour Court 25 per cent of the amount awarded under the awards of the Labour Court on or before 11th August 2004. This Court had also noted the statement of the learned advocate for the petitioner that the petitioner has already deposited a sum of Rs.2 lacs before the Alien Mamlatdar and it was therefore provided that the amount of 25 per cent to be deposited shall be calculated after giving credit for the said amount already deposited. Learned advocate for the petitioner states that the petitioner has deposited the remaining amount as directed by this Court in its order dated 20th July 2004. This statement is, however, seriously disputed by the learned advocate Shri

T.R.Mishra, who submits that even the initial amount of Rs.2 lacs was not deposited in these two proceedings and if the petitioner has deposited any amount towards any other proceedings, the petitioner cannot get credit for the same.

6. In view of the above controversies, the Collector, Ahmedabad is directed to provide to both the petitioner as well as the respondents-workmen the details of the amounts already deposited by the petitioner towards the recovery proceedings involved in these petitions, being Recovery Application Nos.1834/02 and 1832/02 filed by the respondents-workmen who are respondents in these petitions within one week from today. If there is any shortfall from the amount ordered to be deposited by the order dated 20th July 2004, the petitioner shall make good the deposit within a period of two weeks thereafter.

7. So far as the main issue is concerned, the petitions can be disposed of by directing the concerned Labour Court to finally dispose of the applications filed by the petitioner seeking setting aside of the ex-parte awards as also the delay condonation applications filed therein latest by 30th September 2004. Accordingly, the concerned Labour Court is directed to dispose of the same latest by 30th September 2004. Ad-interim relief granted by this Court shall continue till the disposal of the applications filed by the petitioner seeking setting aside of the ex-parte awards. The amount already deposited by the petitioner as well as the further amount, which may be deposited, if any, hereinafter under this order shall be paid over to the concerned workmen.

8. Certain serious allegations have been made by the respondents-workmen in their affidavit dated 26th August 2004. Without expressing any opinion on the allegations made in the said affidavit, I am sure if the contents of the said affidavit are brought to the notice of the President, Industrial Tribunal, Ahmedabad, the same will be looked into and examined, if necessary.

9. In the result, the petitions are disposed of as aforesaid. Rule is made absolute to the above extent.

Direct service to the Collector, Ahmedabad.

(Akil Kureshi, J.)
(vjn)